

CITY OF BELLEVUE  
CITY COUNCIL

Summary Minutes of Extended Study Session

February 9, 2004  
6:00 p.m.

Council Conference Room  
Bellevue, Washington

PRESENT: Mayor Marshall, Deputy Mayor Noble, and Councilmembers Balducci, Chelminiak, Davidson, Degginger, and Lee

ABSENT: None.

1. Executive Session

Deputy Mayor Noble opened the meeting at 6:00 p.m. and announced recess to Executive Session for approximately 45 minutes to discuss three items of potential litigation and one item of property disposition.

The Study Session resumed at 6:50 p.m. with Mayor Marshall presiding.

2. Oral Communications

- (a) Steve Thomas recalled that BarclayDean was selected as a finalist to provide systems furniture in the new City building. He distributed folders of information to Council clarifying and correcting information provided by City staff regarding BarclayDean's proposal. He noted that staff's summary indicated a bid \$25,000 higher than the one submitted by BarclayDean. Mr. Thomas asked Council to postpone its decision on this RFP and invited Councilmembers to come and take a look at their product.
- (b) Scott Harrison, President/CEO of BarclayDean, reminded Council of his previous letter complimenting the City for its detailed RFP process. However, he is concerned that BarclayDean's proposal was not presented accurately to Council. BarclayDean was incorporated in 1957 and moved to Bellevue in 1981. The company has paid \$250,000 in City taxes and \$85,000 in property taxes over the past 10 years. Last year, BarclayDean paid \$170,000 in B&O taxes and purchased products and services from more than 40 Bellevue companies totaling \$3 million. Mr. Harrison summarized BarclayDean's support of the Bellevue Parks Board, Lake Washington Human Resources Association, St. Andrew's Housing Group, Junior Achievement, and Eastside Executive Forum. He asked Council to delay its decision and to request product demonstrations from the two vendor finalists.

- (c) Ken Sitarz, Haworth manufacturing representative, recalled that Haworth was the price leader in the first comparison of systems furniture vendors. He would like to continue working with SRG Partnership to refine costs, create a bond for the project, and provide a performance guarantee.

Mayor Marshall recognized Cheryl Kuhn, Neighborhood Outreach Manager, who recalled that Bellevue received the James C. Howland Gold Award for Urban Enrichment at the National League of Cities conference for its Neighborhood Investment Strategy project in West Lake Hills. CH2M Hill is a co-sponsor of the award. Ms. Kuhn introduced Kathy Lombardo, Senior V.P. and Northwest Regional Manager for CH2M Hill and Chair of the Bellevue Chamber of Commerce Executive Committee.

Ms. Lombardo congratulated Council and City staff and noted that Mr. Howland is an active 80-year-old working for his community in Corvallis, Oregon.

Councilmember Lee displayed a photograph of himself and former Councilmember Mosher receiving the award at the NLC conference. He credited citizens, staff, and Council for implementing the West Lake Hills project.

Mayor Marshall said the City received \$2,000 with the award, which was presented to Bellevue Boys and Girls Club for its after-school programs.

### 3. Study Session

#### (a) Council New Initiatives

Deputy Mayor Noble requested Council approval to renew the City's membership in the Eastside Human Services Forum. Mayor Marshall noted Council consensus to continue membership in this group chaired by Mr. Noble.

#### (b) Neighborhood Investment Strategy (NIS) – West Lake Hills Quarterly Update

Ms. Kuhn provided a quarterly update on the West Lake Hills Neighborhood Investment Strategy (NIS) project. The 26 projects originally identified as immediate have been completed although some have generated ongoing follow-up projects and activities. Of 18 capital projects funded in the current CIP (Capital Investment Program) Plan, four have been completed.

Ms. Kuhn reviewed public outreach efforts for three major upcoming projects. An open house is scheduled for Tuesday, February 24 (4:00 to 7:00 p.m.) at Robinswood School to discuss pedestrian improvements to 145<sup>th</sup> Place SE. The purpose of the gateway/neighborhood identity project is to enhance the identity of West Lake Hills through visual symbols such as signage, landscaping, pavement treatments, and distinctive lighting. A community meeting on this project is scheduled for Tuesday, March 16 (7:00 p.m.) at St. Louise Catholic Church. The third project involves tree and sidewalk replacement along Lake Hills Boulevard. The second phase of tree removal will be implemented during the week of February 23 when 79 diseased and dying Birch trees will be removed between 148<sup>th</sup> and 156<sup>th</sup> Avenues.

Councilmember Balducci expressed support for the tree and sidewalk replacement project and thanked staff for their efforts. Ms. Balducci requested an update on the citizens' top priority for the revitalization of neighborhood shopping centers. Ms. Kuhn said the City's involvement in redeveloping Lake Hills Shopping Center came to a halt after rejection by community stakeholders of the last proposed design. It is now the property owner's responsibility to submit a revised application for redeveloping the site.

City Manager Steve Sarkozy said the City is interested in initiating discussions with the property owner to determine what, if anything, the City can do to be a catalyst in the revitalization effort for Lake Hills and other shopping centers as well.

Ms. Balducci said residents have asked her whether there are plans for new sidewalks along the east side of 156<sup>th</sup> Avenue. Ms. Kuhn said the NIS program includes three sidewalk projects along the west side of 156<sup>th</sup> Avenue. One is underway, one is ready to begin construction, and the third is in the permit processing stage. No sidewalk projects are planned for the east side of the street. However, City crews provided sidewalk maintenance along the east side last year.

Responding to Ms. Balducci, Ms. Kuhn said the targeted code enforcement program is focused on providing better educational materials for residents about property maintenance issues and relevant codes as well as assisting residents in correcting problems. In further response, Ms. Kuhn said the Senior Needs Assessment was conducted by the Recreation Division of the Parks Department. The information was presented to the Parks and Community Services Board last month and will be incorporated into the Recreation Master Plan for Council's consideration.

Responding to Dr. Davidson, Ms. Kuhn confirmed that the overall process has increased citizen involvement and leadership in planning public projects. Mayor Marshall noted that West Lake Hills residents are now serving on the Planning Commission and Council.

(c) I-405 Corridor Early Environmental Investments (EEI) Program

Transportation Director Goran Sparrman opened the discussion about the I-405 corridor Early Environmental Investments (EEI) Program, which proposes significant widening of I-405 for its entire length. He noted that the new five-cent gas tax increase will provide nearly \$500 million for I-405 corridor projects. Mr. Sparrman introduced Denise Cieri (Washington State Department of Transportation) and Christina Martinez (I-405 Environmental Lead, WSDOT).

Ms. Cieri said work on I-405 in Bellevue is scheduled to begin in 2008. Projects include a new Wilburton tunnel, the addition of a northbound lane from I-90 to SE 8<sup>th</sup> Street, and the addition of a southbound lane from SE 8<sup>th</sup> to I-90.

Ms. Martinez explained that the purpose of the EEI Program is to address requirements imposed by the National Environmental Policy Act, State Environmental Policy Act, Clean Water Act, Endangered Species Act, and other environmental regulations. The EEI Program is part of an overall strategy to mitigate the environmental impacts of transportation projects. Ms. Martinez said a minimum of five years is needed to establish an environmental mitigation site. The goal

of the EEI Program is to implement environmental investments early before the transportation impacts are in place. It utilizes a watershed-based approach and looks for the best ways to target projects throughout the watershed for the maximum benefit. The objective is to provide better environmental results at costs equal to or lower than traditional mitigation.

Ms. Martinez said greater environmental benefits can be achieved by restoring natural conditions, such as wetlands, rather than building artificial storage and treatment facilities such as stormwater detention ponds. Additional projects meeting the objectives of the EEI Program are riparian enhancement, salmon habitat enhancement, floodplain connectivity, and water quantity.

Ms. Martinez reviewed the project time line. In December 2003, WSDOT compiled a list of potential projects from existing basin plans and reports. In January, the EEI task force reviewed and revised the project list. WSDOT will conduct its fatal flaw analysis and secondary screen this month. The EEI task force will further refine the project list in March and make recommendations. Project design is scheduled to begin by May 2004, and EEI project construction will begin by the summer of 2005.

EEI Project criteria include sites within the basin boundaries, compliance with environmental objectives, a cost of \$250,000 to \$10 million, and projects that can obtain permits within 12 months. The five geographic areas included in the EEI project are South Renton, North Renton, Bellevue, Kirkland, and Bothell. The top five projects under consideration for Bellevue are the West Tributary at Kelsey Creek Farm, Kelsey Creek from the farm to NE 8<sup>th</sup> Street, Mercer Slough, Valley Creek, and Chism Beach lakeshore.

Councilmember Degginger questioned the most important objective of the EEI Program. Ms. Martinez said a primary objective is to implement projects that provide sufficient mitigation to ensure future transportation project permits are approved. Responding to Mr. Degginger, Stream Scientist Kit Paulsen said a major focus in Bellevue will be the Mercer Slough wetlands and impacts to endangered species.

Mayor Marshall said the intent of the EEI Program is to implement environmental projects that restore and/or preserve the natural environment and potentially have a more positive impact than traditional mitigation measures such as detention ponds that meet permit requirements but might not necessarily contribute to environmental functioning.

Utilities Director Lloyd Warren noted the EEI watershed approach is also geared toward not having to spend large amounts of money to secure extra right-of-way for mitigation measures but to implement projects, where feasible, away from the right-of-way to achieve the same or better results.

Responding to Mr. Chelminiak, Ms. Martinez said a recent study of state projects indicates six to 34 percent of project costs are spent on mitigation measures. Mitigation costs tended to be higher in urban areas. The estimated total cost of the Bellevue segment of the I-405 project is \$185 million, from which a portion will be used for mitigation.

Mr. Lee questioned whether the proposed approach has been used for other projects. Ms. Martinez said wetland restoration projects have been implemented statewide as mitigation measures for transportation project impacts. Mr. Warren said the same approach was used for the third Sea-Tac runway and Boeing Creek. It provided significant benefits to the creek and achieved environmental objectives at a lower cost than traditional mitigation measures.

Mayor Marshall thanked staff for the presentation.

(d) Year-End Budget Monitoring Report

Finance Director Jan Hawn discussed the 2003 Budget Monitoring Report, which indicates signs of economic recovery during the last quarter of 2003. King County's unemployment rate fell to 5.8 percent in December 2003, which is the lowest level since December 2002. Regional economists are predicting the area's employment will grow by approximately 16,000 jobs during the first half of 2004. Sales tax revenues were slightly lower in 2003 compared to 2002, but Bellevue's fourth quarter retail sales tax revenues increased by 1.8 percent compared to 2002. Business and occupation (B&O) tax revenues increased by 1 percent in the fourth quarter of 2003. Year-end tax collections were lower than budgeted, which was offset by reductions in expenditures (5 percent) and collections in excess of budgeted amounts for other revenues.

Ms. Hawn said the General Fund ended the year with a balance of \$3.7 million, which is \$0.5 million greater than the \$3.2 million that was budgeted. Utility Funds began the year with a fund balance that was \$3.5 million higher than anticipated. Service charges for the three utilities came in as budgeted, and expenditures were under budget by approximately \$4.3 million.

Staff continue to monitor the Health Benefits and Workers Compensation Funds as the cost of claims continues to rise. Staff will formulate a recommended course of action for future Council consideration.

Ms. Hawn said Capital Investment Program (CIP) expenditures ended the year at \$50.9 million, or 64 percent of the available budget. Several key projects were accomplished including the 2003 Overlay Program, 156<sup>th</sup> Avenue NE, 150<sup>th</sup> Avenue SE/Eastgate Way, SE 28<sup>th</sup> Street extension/Bellevue Community College parking lot modifications, and significant park acquisitions. The Neighborhood Enhancement Program (NEP) completed 25 projects.

Councilmember Lee commended Finance staff for the report and all departments for reducing expenditures. He noted the projected increase in employment for 2004 and feels President Bush's economic stimulus plan is working. Mr. Lee recalled Council's previous approval of a \$35 million line of credit for the CIP Plan and the use of \$10 million so far. He hopes the funds will be recovered through an improved economy and continued sound financial management.

Mr. Sarkozy thanked Council for acknowledging staff's success in reducing expenditures.

Dr. Davidson feels Bellevue citizens are well served by the City's financial monitoring and management. He is proud of City staff and wishes other governments would make similar efforts with their budgets.

Mr. Chelminiak congratulated staff for its financial management and commented that the City cannot continue to defer maintenance or filling vacant positions indefinitely. Mr. Noble concurred.

Ms. Balducci praised staff's thorough and clear report. She noted the limitations of expecting employees to continue to do more with less over the long term, however, and suggested that increases in sick leave, for instance, can be an indication of overall organizational health.

Mayor Marshall recalled Council's justification for approving the CIP line of credit which was based on low interest rates, a favorable bid climate, and the desire to complete projects quicker. Council made a conscious decision to borrow at this time because it makes good financial sense.

Mr. Degginger echoed Council's praise and expressed concern about increasing health care costs.

Mayor Marshall thanked staff for the report.

(e) New City Building Systems Furniture

Planning and Community Development Director Matt Terry recalled staff's discussion with Council during the January 20 Study Session about the selection criteria for systems furniture for the New City Building. The purpose of tonight's discussion is to review the selection process and recommend a dealer and manufacturer based on the finalists' responses to the RFP. Mr. Terry said both finalists are good manufacturers and dealers, have products that meet all of the City's criteria, and can meet the required delivery schedule. Therefore, staff's recommendation was ultimately based on the best price.

Mr. Terry said it is important to make a decision on systems furniture at this time in order to complete departmental layouts for the new building and continue with the design process. A furniture display will be provided for employees to test the configurations and provide feedback. A decision on the furniture now will enable staff to finalize the maximum allowable construction cost (MACC) to be approved by Council in May. Final budget approval is not needed at this time. However, staff would like to select a product and dealer to allow the design team to create detailed layouts for final pricing.

Carla Weinheimer, Project Manager, explained that the two finalists were asked to provide the price for a standard workstation (70 square feet), the discount structure after purchase, proposed fees for dealer services, cost of demonstration furniture, and the buy-back value of existing furniture. The MBI/Herman Miller estimate is \$1,863,922 and the BarclayDean/Steelcase estimate is \$1,968,174. Ms. Weinheimer said the final cost will depend on specific layouts and the number of workstations purchased.

Staff recommends the City select MBI Systems and Herman Miller (Ethospace product) as the least cost dealer and manufacturer for the project. MBI Systems offered the better discount structure for the City's purchases after the initial order, which will provide additional savings

over time. Ms. Weinheimer noted the City's Information Technology department expressed a clear preference for the Ethospace product's wiring and cabling management system. Both Herman Miller and Steelcase have extensive products available on the U.S. Communities Contract.

Mr. Terry reviewed the next steps to follow Council's approval of a dealer and manufacturer:

- Staff will develop a binding agreement with the selected dealer and manufacturer based on the RFP responses that will specify the discount levels for product purchases, the scope and fees for dealer services during design, and the dollar value to buy back existing furniture.
- Final purchase contract will be prepared following design for approval in June 2005.

Mayor Marshall asked staff to comment on the testimony of BarclayDean representatives during Oral Communications earlier in the evening. Mr. Terry said BarclayDean responded they would provide dealer services up to \$25,000 at no cost to the City. Staff estimates dealer costs could run as high as \$50,000, which is why the cost comparison shows \$25,000 for this line item. MBI/Herman Miller said they will provide the same services at no cost to the City. Regarding electrical installation costs, Mr. Terry said BarclayDean sent a written communication increasing its bid to cover these costs. Tonight BarclayDean representatives indicated that was a mistake. Mr. Terry noted that Herman Miller/Ethospace is still the lower priced product (\$54,000 less than Steelcase/Montage) even if dealer and installation costs are eliminated for BarclayDean.

Responding to Councilmember Degginger, Mr. Terry said staff and the design team have viewed both furniture systems in the showroom and in office installations. A delay to actually install test furniture for further review would result in a project delay of six to eight weeks and interfere with the ability to refine costs prior to MACC approval in May.

Responding to Mr. Lee, Mr. Terry said this is a favorable time for this purchase as prices will likely increase as the economy recovers in the future. He noted the US Communities Contract will be renegotiated this year, which will also likely result in increased prices. Mr. Terry said the early selection of a furniture vendor is as important as the early selection of a general contractor/construction manager (GC/CM) in terms of streamlining the design and planning process and controlling costs.

Responding to Deputy Mayor Noble, Laura Hill (SRG Partnership) said the City has been aggressive in obtaining the best price including unprecedented discounts, based on her experience. She supports staff's recommendation for MBI/Herman Miller.

Mr. Lee would like to see continued cost competition including a demonstration mock-up of systems furniture by two or three vendors.

Mr. Chelminiak is pleased with the bids provided by both vendors and prefers to defer to staff's recommendation. He cautioned that a demonstration by multiple vendors could divide employees over which furniture should be selected. Mr. Chelminiak prefers to make a decision now in order to move forward.

- Deputy Mayor Noble moved to direct staff to develop an agreement with MBI Systems (Herman Miller Ethospace Product) based on the information provided in their response to the City's RFP. Dr. Davidson seconded the motion.

Dr. Davidson encouraged support of staff's recommendation and noted that extension of the competitive process would result in additional costs to the City and vendors.

Mayor Marshall expressed support for the process and staff's recommendation and emphasized the importance of keeping the project on schedule and within the overall budget of \$100 million.

Mr. Lee will vote against the motion because he is not convinced the City has achieved the best price.

- The motion to direct staff to develop an agreement with MBI Systems (Herman Miller Ethospace Product) based on the information provided in their response to the City's RFP carried by a vote of 6-1, with Mr. Lee dissenting.

Mayor Marshall thanked the companies who participated in the RFP process.

(f) Parks Facilities Code Amendments

Mr. Sarkozy opened discussion regarding proposed Parks Facilities Code amendments, tentatively scheduled for Council approval on February 17.

Parks and Community Services Director Patrick Foran introduced the following staff who have worked on the proposed Code amendments: Victoria Hollerbach (Parks), Major Bill Thomas (Police), and Jerome Roaché (City Attorney's Office). Mr. Foran noted two documents in Council's desk packet regarding this agenda item. He explained that the majority of the amendments are aimed at improving clarity, removing ambiguity, and updating Code sections for consistency.

Mr. Foran highlighted one of the substantive amendments regarding the expulsion of certain residents from City parks. Under the current system, a Parks staff person or police officer could identify inappropriate action by a citizen in violation of the Code and could request authorization to ban the individual from City parks for up to one year. Written notice must be served on the offender and accepted via certified mail. This practice is considered inadequate for several reasons: 1) lack of authority for Police to take immediate action, 2) certain language is potentially constitutionally deficient, 3) the Code does not cover the full list of serious offenses, 4) it is easy for an offender to defeat the notice requirement, 5) Code is site specific only, and 6) the ban maximum of one year is not sufficient for certain more serious offenses.

Major Thomas commented on the difficulties associated with expelling a person from a park. As an example, he said in the case of indecent exposure a person could be arrested but the officer does not have the authority to prevent him or her from returning to the park a few days later. Additional recurring problems include unauthorized overnight camping in public parks and youths meeting in parks to fight. An officer currently must observe a fight to arrest a person for

disorderly conduct. The proposed amendments would enable officers to expel persons from a park in certain situations, and the accused person would have the ability to appeal the action administratively with the Parks Director.

Mr. Roaché referenced proposed amendment language that a person could be expelled from a park for using abusive or disruptive language or directing racially offensive remarks at another person. He cautioned that such a provision might not withstand a constitutional challenge because it is relatively vague and might infringe on constitutionally protected speech. With regard to existing Section 3.43.320, Expulsion from Parks, a person can be expelled for the 11 behaviors listed in the Code. However, these behaviors are somewhat subjective and could be challenged on constitutional grounds. The proposed amendment lists criminal offenses already defined under either city or state law.

Mr. Roaché feels the proposed language regarding the delivery of violation notices by certified mail is problematic and could be challenged in court. The proposed maximum expulsion period of 10 years would apply only to persons who have committed three or more Level 5 felonies (e.g., rape, murder).

Councilmember Balducci expressed concern that citizens would not be given warnings first for the more minor offenses. She questioned whether the rules are posted in City parks and how other cities address similar problems.

Responding to Mr. Degginger, Mr. Roaché said the appeals process is not described in the Code but in the City's Administrative Procedures. An appeal would be reviewed by the Parks Director, who would make the final decision.

Deputy Mayor Noble questioned whether accused violators would receive sufficient due process under the approach proposed in the Code amendments. He suggested the appeal period should be longer than seven days and asked whether expulsions are automatic and consistently applied or discretionary. He questioned what will happen to a citizen if he or she prevails in an appeal.

Mr. Foran said all expulsions are reviewed by Parks staff. He noted the proposed approach has been successful in the private sector.

Mayor Marshall reviewed suggestions/issues raised by Council:

- Warnings for first offenses,
- Statistics on the magnitude of problems in public parks,
- What are other cities doing?
- Clarify the appeals process,
- Do accused citizens have an opportunity to defend themselves?

Mr. Roaché said the notice given at the time of the violation explains the right to an appeal within seven days and the right to present one's case.

Mayor Marshall requested clarification to Section 3.43.150, Disturbances of Animals.

Mr. Chelminiak expressed concern about amendments to Section 3.43.335, Trees and Vegetation – City property, that will criminalize the damage or removal of trees or vegetation.

Mr. Foran recalled the serious tree cutting incident in 2002 as well as less serious incidents in recent years. Staff identified the need to implement a more significant deterrent to such behavior. In the 2002 incident, the County prosecutor did not find sufficient grounds for malice to prosecute the case. However, a settlement was ultimately reached between the parties and the City. The proposed amendments to Section 3.43.335 provide better local control in these situations. Mr. Foran said such violations could be handled as a civil or criminal case, depending on the circumstances.

Mr. Chelminiak is concerned the amendment proposes to designate damage to trees and vegetation as a gross misdemeanor while lewd conduct in public, resisting arrest, refusing to summon aid for a police officer, and interfering with a police officer are all considered misdemeanors. He is not in favor of criminalizing damage to trees and vegetation and feels the \$150,000 fine imposed in the settlement of the 2002 case was significant.

Mr. Degginger opined that such a fine might not be sufficient in cases in which a person is willing to risk \$100,000 to cut vegetation that will improve the value of his or her home by \$200,000 because of the improved view. He feels a criminal component is appropriate but would like further discussion as to what that should be.

Mayor Marshall thanked staff for the presentation.

At 9:53 p.m., Mayor Marshall declared the meeting adjourned.

Myrna L. Basich  
City Clerk

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